

## REMARKS

Accordingly, pursuant to 35 U.S.C. §121, Applicants hereby elect to prosecute Group II. This election is being made without prejudice to Applicants' rights with respect to Claims 1-21, Groups I and III, including the right to file divisional application(s) thereon. Claims 1-21 read on Group I.

Consistent with this election of Group II, the claims have been amended to method of treatment claims. Claims 1-21 have been amended and support for the amendments can be found throughout the Specification as filed. No new matter is added by these amendments.

The Examiner is also requiring election of a single species of the formula of Claim 2. Applicants elect the species 2-amino-2-[2-(4-octaphenyl)ethyl]propane-1,3 diol also known as FTY720. This election is being made without prejudice to Applicants' rights with respect to the remaining structures encompassed in Claim 2.

If Group II is elected, the Examiner is further requiring the election of a single disclosed vascular permeability disorder as disclosed in claim 9. Applicants elect adult (acute) respiratory distress syndrome. The Examiner is also requiring the election of one disorder related to vascular endothelial cell apoptosis as in claims 18 and 19. Applicants elect viral myocarditis. If the Examiner requires election to only one disorder, Applicants elect adult (acute) respiratory distress syndrome. This election is being made without prejudice to Applicants' rights with respect to the additional disorders claimed in claims 9, 18 and 19.

If there are any charges with respect to this Restriction Requirement, or otherwise, please charge them to Deposit Account No. 06-1130.

Respectfully submitted,

CANTOR COLBURN LLP

/Karen A. LeCuyer/

By: \_\_\_\_\_

Karen A. LeCuyer  
Registration No. 51,928  
Customer No. 23413

Date: October 21, 2008  
Telephone: (860) 286-2929